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7 dba El Super

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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 LUZ T. MACIAS, Individually, Case No.:

12 Plaintiff,

13 vs.

14 BODEGA LATINA CORPORATION, d/b/a
15 EL SUPER, a Foreign Corporation; DOES
1 through 20; ROE CORPORATIONS 1
through 20, inclusive,

16 Defendant.

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18 **NOTICE OF REMOVAL**

19 TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA
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21 Defendant, Bodega Latina Corporation dba El Super, hereby notices the removal
of this action to the United States District Court and, in support thereof, states as
22 follows:

23 1. On or about August 1, 2017, Plaintiff commenced an action in the Eighth
24 Judicial District Court, Clark County, Nevada, entitled *Luz T. Macias v. Bodega Latina*
25 *Corporation dba El Super*, Case No. A-17-759247-C. A copy is attached hereto as
26 Exhibit A. In the Complaint at ¶1, Plaintiff alleges that Plaintiff is a resident of Clark
27 County, Nevada.

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1 2. Service of Summons and Complaint upon Defendant Bodega Latina
2 Corporation dba El Super was made by personal service on August 9, 2017. A copy is
3 attached as Exhibit B.

4 3. On August 24, 2017, Defendant Bodega Latina Corporation Answered the
5 Complaint. A copy is attached as Exhibit C.

6 4. On September 6, 2017, a Request for Exemption from Arbitration was
7 requested by Plaintiff's counsel Joseph J. Wirth, Esq. A copy is attached as Exhibit D.

8 5. No further proceedings have been had in this matter in the Eighth Judicial
9 District Court, Clark County, Nevada.

10 6. This Court has original jurisdiction over the subject matter of this action
11 pursuant to 28 U.S.C. §1332. Further, this matter is one that may be removed to this
12 Court pursuant to 28 U.S.C. §1441 because it is a civil action that is between citizens of
13 different states and in which the amount in controversy exceeds \$75,000, exclusive of
14 interest and costs.

15 7. Plaintiff alleges in her Complaint that she was and is, at all times relevant
16 therein, a resident of Clark County, Nevada.

17 8. Defendant Bodega Latina Corporation is a Delaware Corporation
18 headquartered in Paramount, California.

19 9. DOES 1 through 20 and ROE CORPORATIONS 1 through 20 are named
20 and sued fictitiously, and their citizenship is disregarded as a matter of law for purposes
21 of removal on grounds of diversity jurisdiction.

22 10. There is now complete diversity between Plaintiff and Defendant Bodega
23 Latina Corporation.

24 11. The Complaint alleges claims for Negligence and Premises Liability.

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1 12. In her Petition for Exemption from Arbitration, Plaintiff identified medical
2 special damages in the amount of \$87,209.18. Furthermore, Plaintiff states that her
3 surgeon, Dr. Grover has identified her as a candidate for surgical microdiscectomy
4 decompression with interbody fusion. Thus, based on the allegations in the complaint
5 and the representations made by the Plaintiff in the Petition for Exemption from
6 Arbitration, the value of the amount in controversy exceeds \$75,000.00.

7 13. Fewer than 30 days have passed since notice of lawsuit was served, the
8 thirtieth day being September 8, 2017.

9 14. A true and correct copy of this Notice of Removal is being filed on this
10 date with the Clerk of the Eighth Judicial District Court, Clark County, Nevada.

11 15. Based on the foregoing, Defendant Bodega Latina Corporation, hereby
12 removes the above-referenced action now pending in the Eighth Judicial District Court,
13 in and for the County of Clark, as Case No. A-17-759247-C to this Court.

14 Dated this 7th day of September, 2017.

BAUMAN LOEWE WITT & MAXWELL, PLLC

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- A Plaintiff's Complaint
- B Affidavit of Service
- C Defendant's Answer to Complaint
- D Plaintiff's Request for Exemption